

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11	DIMITRI VALERYEVICH	)	Civil No. 07cv2033-L(NLS)
12	TATARINOV,	)	Civil No. 07cv2034-L (NLS)
13	Petitioner,	)	<u>AMENDED ORDER (1) GRANTING</u>
14	v.	)	<u>PETITIONER'S MOTION TO</u>
15	SUPERIOR COURT OF THE STATE OF	)	<u>CONSOLIDATE CASES; (2)</u>
16	CALIFORNIA, COUNTY OF SAN	)	<u>ORDERING FILING OF</u>
17	DIEGO; OFFICE OF THE CHIEF	)	<u>CONSOLIDATED PETITION; (3)</u>
18	COUNSEL, DEPT. OF HOMELAND	)	<u>SETTING BRIEFING SCHEDULE;</u>
19	SECURITY; U.S. ATTORNEY,	)	<u>AND (4) VACATING HEARING</u>
20	SOUTHERN DISTRICT; ICE,	)	<u>DATE AND SETTING BRIEFING</u>
21	Respondents.	)	<u>SCHEDULE ON PETITIONER'S</u>
22		)	<u>MOTION FOR STAY OF REMOVAL</u>

Petitioner Dimitri Valeryevich Tatarinov, represented by counsel, simultaneously filed two Petitions for Writ of Habeas Corpus under 28 U.S.C. § 2241. One was filed under case no. 07cv2033-L(NLS) and the other under 07cv2034-JAH(POR). On November 4, 2007 in case no. 07cv2034-JAH(POR), Petitioner filed Petitioner's a Motion to Consolidate This Case with Case No. 07cv2033-L(NLS).¹ On November 15, 2007, case no. 07cv2034-JAH(POR) was transferred

¹ The court notes Petitioner's motion failed to comply with Civil Local Rule 7.1. Although the court is granting Petitioner's motion, Petitioner is admonished that any further pleadings which fail to comply with Civil Local Rules or Electronic Case Filing Administrative Policies and Procedures may be stricken and may lead to penalties pursuant to Civil Local Rule 83.1.

1 to this court as a related case pursuant to Civil Local Rule 401.(d). Because the two petitions
2 present common issues of fact and law, Petitioner's motion to consolidate is **GRANTED**.
3 Petitioner is ordered to file a consolidated petition, and the court is setting a new briefing
4 schedule on the petition and Petitioner's pending motion for stay of removal. All further
5 pleadings shall be filed in case no. 07cv2033-L(NLS) only.

6 In the petition filed under case no. 07cv2034, Petitioner attacks his state court robbery
7 conviction which he claims was due to ineffective assistance of counsel. In his petition filed
8 under case no. 07cv2033, he seeks attacks a subsequent state court shoplifting conviction, which
9 was "upgraded" to a felony due to the prior robbery conviction. Petitioner argues his second
10 conviction was due to ineffective assistance of counsel in the prior criminal case as well as in the
11 subsequent case. As stated in both petitions, due to these convictions, Petitioner, a permanent
12 resident, was placed in removal proceedings. Petitioner was found removable and is currently
13 held in custody at the Immigration and Customs Enforcement Detention and Removal Center in
14 San Diego pending removal. The respondents in both actions are identical.

15 Pursuant to Federal Rule of Civil Procedure 42(a), the court may consolidate cases
16 involving common questions of law or fact to avoid unnecessary costs and delay:

17 (a) **Consolidation.** When actions involving a common question of law or fact are
18 pending before the court, it may order a joint hearing or trial of any or all the
19 matters in issue in the actions; it may order all the actions consolidated; and it may
make such orders concerning proceedings therein as may tend to avoid
unnecessary costs or delay.

20 The court has broad discretion in ordering consolidation. *Investors Research Co. v. United*
21 *States Dist. Court for Cent. Dist.*, 877 F.2d 777 (9th Cir. 1989). Because the petitions involve
22 the same parties, present the same issues of law, request the same relief and because many of the
23 issues of fact are the same, the court hereby consolidates the two actions, and Petitioner is
24 ordered to file a consolidated petition in case no. 07cv2033-L(NLS). Based on consolidation
25 and the addition of additional respondents in the amended petitions filed November 16, 2007,
26 court also modifies the briefing schedule on the consolidated petition and Petitioner's pending
27 motion for stay of removal.

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1 For the foregoing reasons, **IT IS HEREBY ORDERED** as follows:

2 1. Petitioner's Motion to Consolidate This Case with Case No. 07cv2033-L(NLS), filed
3 November 4, 2007, is **GRANTED**. Cases no. 07cv2033-L(NLS) and 07cv2034-L(NLS) are
4 hereby **CONSOLIDATED**. From the date of this order forward, all pleadings shall be filed in
5 case no. 07cv2033-L(NLS) only.

6 2. No later than **November 30, 2007** Petitioner shall file a consolidated petition which
7 includes all facts and legal arguments he intends to assert in both cases. Respondents shall file
8 and serve their respective responses no later than **December 21, 2007**. The responses shall
9 include any and all documents relevant to the determination of the issues raised by the
10 consolidated petition. If Petitioner wishes to reply to Respondents' responsive memoranda, a
11 traverse must be filed no later than **January 7, 2008**.

12 3. No later than **December 3, 2007** Respondents shall file their respective memoranda of
13 points and authorities in opposition to Petitioner's motion for stay of removal, together with
14 supporting evidence, if any. Although Petitioner filed one motion for stay in each case, the
15 motions are identical. Accordingly, opposition briefing is required only in case no. 07cv2033-
16 L(NLS). If Petitioner wishes to reply to Respondents' opposition briefing, a reply memorandum
17 of points and authorities must be filed no later than **December 10, 2007**, together with
18 supporting evidence, if any.

19 4. Upon filing the foregoing, the parties shall await further order of this court. The
20 hearing date currently set for February 19, 2008 is hereby **VACATED**.

21 **IT IS SO ORDERED.**

22 DATED: November 27, 2007

23 
24 M. James Lorenz
United States District Court Judge

25 COPY TO:

26 HON. NITA L. STORMES
27 UNITED STATES MAGISTRATE JUDGE

28 ALL PARTIES/COUNSEL